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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,923	07/31/2003	Pierre Hoemer	045636-5070	7579

9629 7590 07/12/2005  
MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20004

EXAMINER

RAYFORD, SANDRA M

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.

10/630,923

Examiner

Sandra M. Nolan-Rayford

Applicant(s)

HOERNER ET AL.

Art Unit

1772

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communicaton faxed on 17 June 2005.
2. ☒ The allowed claim(s) is/are 1-19 and 23-27.
3. ☒ The drawings filed on 27 June 2005 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20050707.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

*S. M. Nolan-Rayford*  
**SANDRA NOLAN RAYFORD**  
**PRIMARY EXAMINER**

7-7-05

**ATTACHMENT TO SUPPLEMENTAL ALLOWANCE**

***The Submission of 17 June 2005***

The examiner notes that she requested the specification and drawing changes recited in the submission of 17 June 2005. Accordingly, the "AMENDMENT UNDER 37 C.F.R. s. 1.312" of that date has been treated as a response to the examiner's request that new drawings be submitted.

It is not being processed as a section 312 Amendment.

**SUPPLEMENTAL EXAMINER'S AMENDMENT**

1. A supplemental examiner's amendment to the record appears below. It supplements the changes made/suggested in the office action mailed on 17 June 2005.
2. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with Dr. Gregory Lowen (202/739.5915) on 07 July 2005. Permission was also given in the 17 June 2005 faxed communication.
4. The application has been amended as follows:

**In the Specification**

The amendment to page 1, after line 6, as recited on page 4/11 of the communication faxed on 17 June 2005 has been entered.

The amendment to page 1, lines 16-29, as recited on page 4/11 of the communication faxed on 17 June 2005 has been entered.

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The amendment to the passage at page 7, lines 25 through page 8, line 7, as recited on pages 5/11 of the communication faxed on 17 June 2005 has been entered.

In the Drawings

Figures 1, 2, and 3, appearing on pages 9/11, 10/11 and 11/11 of the communication faxed on 17 June 2005 have been entered.

**REASONS FOR ALLOWANCE**

5. The base claim of the application is claim 1, which covers an elastomeric material comprising:

at least two barrier layers L1 and L3, having breaking stress S1 and S3 and thickness T1 and T3 and an elastic constant E1 and E3, which layers enclose

-at least one intermediate layer consisting an elastomeric matrix comprising a least one dispersion of droplets of a composition containing one or more active substances, with the intermediate layer having breaking stress S2Tot2 and thickness T2 and an elastic constant E2,

wherein the mean diameter of the droplets is at least 10 um and the material satisfies the following two inequalities:

$$(S2Tot.T2) < (S1.T1) \text{ and } (S2Tot.T2) < (S3.T3),$$

in which S2Tot is the breaking stress of the charged elastomeric material constituting the layer L2 and S1, S3, T1, T2, T3 are as defined above.

6. The prior art of record fails to teach or suggest elastomeric materials having all of the features recited in claim 1.

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**Conclusion**

Any inquiry concerning this communication should be addressed to Sandra M. Nolan-Rayford, at telephone number 571/272-1495. She can be reached Monday through Thursday, from 6:30 am to 4:00 pm, ET.

If attempts to reach the examiner are unsuccessful, contact her supervisor, Harold Pyon, at 571/272-1498.

The fax number for patent application documents is 703/872-9306.

*S.M. Nolan-Rayford*  
S. M. Nolan-Rayford 7-7-05  
Primary Examiner  
Technology Center 1700

1030923(20050707)

**SANDRA NOLAN RAYFORD  
PRIMARY EXAMINER**